

§516.73

DA may not represent the employee in any proceeding initiated by DA, in any appeal from a final decision by the MSPB, or in any collateral proceeding before any forum other than the MSPB.

(6) OSC may not bring a disciplinary action before the MSPB against a military member. Accordingly, DA counsel will not be required to represent the military member in any MSPB disciplinary proceeding. However, counsel may represent the member during the OSC investigation with the understanding that the evidence obtained by OSC may be referred to the member's command for possible disciplinary action under the UCMJ or appropriate regulations. If DA initiates action against the military member for misconduct disclosed in the OSC investigation, the member will obtain counsel as provided under the UCMJ or relevant regulations.

(c) Records.

(1) OSC requests for records must be in writing. The Labor Counselor will assist OSC representatives in identifying the custodian of specific records sought during the inquiry.

(2) Generally, requested records should be furnished to OSC representatives if such records would be released under AR 25-55 or AR 340-21 to other government agencies in the normal course of official business. Records constituting attorney work product should not be released without approval of the Chief, DAJA-LE. IG records will not be released without the approval of the Inspector General. (AR 20-1). The Labor Counselor should seek guidance from the Chief, DAJA-LE, if there is any doubt concerning the release of records.

(3) If, after completion of the OSC investigation, the OSC files a complaint against DA or a DA employee, release of records and other information will be accomplished pursuant to MSPB rules of discovery (5 CFR part 1201, subpart B).

(d) Funding. The command, activity, or installation within which the allegations of misconduct arose will provide funding for travel, per diem and other necessary expenses related to the OSC investigation. These expenses may include appropriate funding for witnesses, counsel for consultation and

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DA General Counsel approved counsel for representation.

§516.73 Assistance from HQDA.

Labor Counselors may seek guidance on questions arising from implementation of this chapter by calling the Chief, DAJA-LE, DSN 225-9476/9481 or Commercial (703) 695-9476/9481.

Subpart J—Soldiers Summoned To Serve on State and Local Juries

§516.74 General.

(a) This subpart implements 10 U.S.C. §982 and DOD Directive 5525.8. It establishes Army policy concerning soldiers on active duty who are summoned to serve on state and local juries.

(b) This subpart does not apply to Army National Guard soldiers in an annual training or full-time AGR (Active Guard Reserve) status under Title 32, U.S. Code. Soldiers in a Title 32 status must refer to their respective state law for relief from state or local jury duty.

§516.75 Policy.

(a) Active duty soldiers should fulfill their civic responsibility by serving on state and local juries, so long as it does not interfere with military duties.

(b) The following active duty soldiers are exempt from complying with summons to serve on state and local juries:

(1) General officers.

(2) Commanders.

(3) Active duty soldiers stationed outside the United States, Puerto Rico, Guam, the Northern Mariana Islands, American Samoa, and the Virgin Islands.

(4) Active duty soldiers in a training status.

(5) Active duty soldiers assigned to forces engaged in operations.

(c) Other active duty soldiers may be exempted from serving on local juries if compliance with such summons would have either of the following effects:

(1) It would unreasonably interfere with performance of the soldier's military duties; or,

(2) It would adversely affect the readiness of a summoned soldier's unit, command, or activity.